

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

MICHAEL KELLEHER,

Defendant.

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CONSENT PRELIMINARY ORDER
OF FORFEITURE/
MONEY JUDGMENT

21 Cr. 288 (VM)

WHEREAS, on or about May 3, 2021, MICHAEL KELLEHER (the “Defendant”), and another, was charged in a three-count Indictment, 21 Cr. 288 (VM) (the “Indictment”), with narcotics conspiracy, in violation of Title 21, United States Code, Section 846 (Count One); firearms use, carrying, possession, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2 (Count Two); and narcotics distribution, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and Title 18, United States Code, Section 2 (Count Three);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Three of the Indictment, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offenses charged in Counts One and Three of the Indictment, and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offenses charged in Counts One and Three of the Indictment, including but limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Three of the Indictment;

WHEREAS, on or about December 1, 2021, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit to the United States, pursuant to Title 21, United States Code, Section 853, a sum of money equal to \$70,840 in United States currency, representing proceeds traceable to the commission of the offense charged in Count One of Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$70,840 in United States currency, representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with his co-defendant, Mark Gonzalez to the extent a forfeiture money judgment is entered against Mark Gonzalez in this case; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney, Michael R. Herman of counsel, and the Defendant, and his counsel, John Buza, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$70,840 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is

jointly and severally liable with his co-defendant, Mark Gonzalez to the extent a forfeiture money judgment is entered against Mark Gonzalez in this case, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, MICHAEL KELLEHER, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By:


MICHAEL R. HERMAN
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2221

12/1/21
DATE

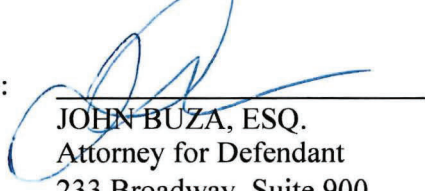
MICHAEL KELLEHER

By:


MICHAEL KELLEHER

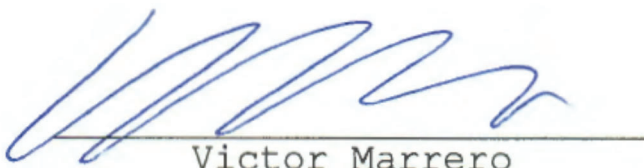
12/1/21
DATE

By:


JOHN BUZA, ESQ.
Attorney for Defendant
233 Broadway, Suite 900
New York, NY 10279

12/1/21
DATE

SO ORDERED:


Victor Marrero
U.S.D.J.

7/1/2022
DATE